



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN REGIONAL OFFICE

Molly Joseph Ward
Secretary of Natural Resources

13901 Crown Court, Woodbridge, Virginia 22193
(703) 583-3800 Fax (703) 583-3821

David K. Paylor
Director

**STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
KING GEORGE COUNTY SERVICE AUTHORITY
FOR THE
DAHLGREN DISTRICT WASTEWATER TREATMENT PLANT
(VPDES Permit No. VA0026514)**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and King George County Service Authority, regarding the Dahlgren District Wastewater Treatment Plant, for the purpose of resolving certain violations of the State Water Control Law, the Regulation and applicable Permit.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "305(b) report" means the report required by Section 305(b) of the Clean Water Act (33 United States Code § 1315(b)), and Va. Code § 62.1-44.19:5 for providing Congress and the public an accurate and comprehensive assessment of the quality of State surface waters.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. "Dahlgren District" means the Dahlgren District Wastewater Treatment Plant located at 16383 Dahlgren Road, King George, Virginia, which treats and discharges treated sewage and other municipal wastes, for the residents and businesses of King George County.

4. "Dahlgren Permit" means the VPDES Permit No. VA0026514 which was issued under the State Water Control Law and the Regulation to King George County Service Authority on January 12, 2009.
5. "Dahlgren Order" means a Consent Special Order issued by the Board on September 27, 2012, to King George County Service Authority to resolve violations of State Water Control Law and Regulations at the Dahlgren District Wastewater Treatment Plant.
6. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
7. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
8. "Discharge" means discharge of a pollutant. 9 VAC 25-31-10
9. "Discharge of a pollutant" when used with reference to the requirements of the VPDES permit program means:
 - (a) Any addition of any pollutant or combination of pollutants to surface waters from any point source; or
 - (b) Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.
10. "DMR" means Discharge Monitoring Report.
11. "Effluent" means wastewater – treated or untreated – that flows out of a treatment plant, sewer, or industrial outfall.
12. "King George" means King George County Service Authority, an authority created pursuant to the Virginia Water and Waste Authorities Act, Va. Code § 15.2-5100 et seq. King George is a "person" within the meaning of Va. Code § 62.1-44.3.
13. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
14. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
15. "O&M" means operations and maintenance.
16. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.

17. "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC § 2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water...
9 VAC 25-31-10.
18. "Pollution" means such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety, or welfare or to the health of animals, fish, or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the Board, are "pollution." Va. Code § 62.1-44.3.
19. "Regulation" means the VPDES Permit Regulation, 9 VAC 25-31-10 *et seq.*
20. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
21. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands.
Va. Code § 62.1-44.3.
22. "Va. Code" means the Code of Virginia (1950), as amended.
23. "VAC" means the Virginia Administrative Code.
24. "VPDES" means Virginia Pollutant Discharge Elimination System.
25. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

SECTION C: Findings of Fact and Conclusions of Law

1. King George owns and operates Dahlgren District. The Dahlgren Permit allows King George to discharge treated sewage and other municipal wastes from Dahlgren District to Williams Creek, in strict compliance with the terms and conditions of the Dahlgren Permit.

2. Williams Creek is listed in DEQ's 305(b) report as impaired for aquatic life use due to low oxygen, and insufficient aquatic plants (macrophytes). This segment is listed as impaired for recreational use due to elevated levels of Enterococci. The source of impairments is listed variously as agriculture, municipal point sources, industrial discharges, sanitary sewer overflows, loss of habitat, and atmospheric deposition of Nitrogen.
3. In submitting its DMRs as required by the Dahlgren Permit, King George has indicated that it exceeded discharge limitations contained in Part I.A.1 of the Dahlgren Permit and Appendix B of the Dahlgren Order. Specifically, King George reported an exceedance of the Total Nitrogen limit for the 2013 Calendar Year.
4. NRO issued Notice of Violation No. W2014-02-N-0002 on February 20, 2014, for the exceedance of the Dahlgren Permit and Dahlgren Order.
5. King George's operating logs indicated that it discharged treated wastewater from Dahlgren District every day from January 2013 through December 2013.
6. Appendix B of the Dahlgren Order states in part that: "From the effective date of this Order until the end of the calendar year in which a Certificate to Operate the Plant upgrades described in Appendix A has been issued, but in no event later than December 31, 2014, the Authority shall monitor, limit, and calculate the discharge from Outfall 001 of the Facility in accordance with VPDES Permit Number VA0026514, except as specified below..." The specified concentration monthly average for Total Nitrogen – Calendar Year is 8.0 mg/L.
7. Va. Code §62.1-44.31 states in part that "It shall be unlawful for any owner to fail to comply with any special order adopted by the Board, which has become final under the provisions of the this chapter ..."
8. Va. Code § 62.1-44.5 states that: "[E]xcept in compliance with a certificate issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances."
9. The Regulation, at 9 VAC 25-31-50, also states that except in compliance with a VPDES permit, or another permit issued by the Board, it is unlawful to discharge into state waters sewage, industrial wastes or other wastes.
10. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a "certificate" under the statute.
11. The Department has issued no permits or certificates to King George for Dahlgren District other than VPDES Permit No. VA0026514.
12. Williams Creek is a surface water located wholly within the Commonwealth and is a "state water" under State Water Control Law.

13. Based on the results of DMR's submitted, the Board concludes that King George has violated the Dahlgren District Permit, the Dahlgren Order, Va. Code §62.1-44.5, Va. Code §62.1-44.31, and 9 VAC 25-31-50, by discharging treated sewage and municipal wastes from Dahlgren District while concurrently failing to comply with the conditions of the Dahlgren District Permit and the Dahlgren Order, as described in paragraph C(3).
14. In order for King George to return to compliance at the Dahlgren District Facility, DEQ staff and representatives of King George have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders King George, and King George agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$1,330.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

King George shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, King George shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of King George for good cause shown by King George, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2)

- seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, King George admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
 4. King George consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
 5. King George declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
 6. Failure by King George to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
 7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
 8. King George shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. King George shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. King George shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and King George. Nevertheless, King George agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after King George has completed all of the requirements of the Order;
 - b. King George petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. The Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to King George.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve King George from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by King George and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of King George certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind King George to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of King George.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, King George voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2014.

Thomas A. Faha, Regional Director
Department of Environmental Quality

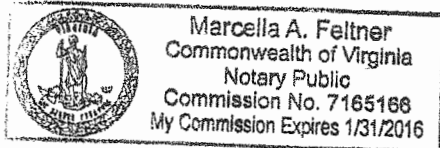
------(Remainder of Page Intentionally Blank)-----

King George County Service Authority voluntarily agrees to the issuance of this Order.

Date: Sept. 8, 2014 By: Christopher F. Thomas, General Manager
(Person) (Title)
King George County Service Authority

Commonwealth of Virginia
City/County of King George

The foregoing document was signed and acknowledged before me this 8th day of
September, 2014, by Christopher F. Thomas who is
General Manager of King George County Service Authority, on behalf of the
Authority.



Marcella A. Feltner
Notary Public
7165166
Registration No.

My commission expires: 1/31/2016

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

1. Plan and Schedule of Corrective Action

- a. King George shall submit to DEQ, for review and approval, by September 1, 2014, detailed procedures for ensuring the operability of the UV intensity meters in accordance with manufacturer's recommendations. The procedures shall include daily readings of the intensity meter with recordation in the operator's log book. Upon approval, said procedures shall be incorporated into the O&M manual. If the UV intensity meters experience periods of downtime or fail to display levels set forth in the procedures, King George shall implement daily sampling for *Enterococci* until such time as the intensity meters are fully operational.

2. DEQ Contact

Unless otherwise specified in this Order, King George shall submit all requirements of Appendix A of this Order to:

Virginia Department of Environmental Quality
Northern Regional Office – Attn: Enforcement
13901 Crown Court
Woodbridge, VA 22193